UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,120	10/26/2001	Majid Syed	708034-605-004	2398

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EXAMINER
HAMILTON, MATTHEW L

ART UNIT	PAPER NUMBER
3688	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/045,120	SYED, MAJID
	Examiner	**Art Unit**	
	MATTHEW L. HAMILTON	3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *18 December 2008*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-26 and 57-95* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-26 and 57-95* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some *   c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Amendment

1.   This action is in reply to the amendment filed on 18 December 2008.

2.   Claims 1-26 and 57-95 are currently pending and have been examined.

3.   **Examiner's Note**: The Examiner has pointed out particular references contained in the

prior art of record within the body of this action for the convenience of the Applicant. Although the

specified citations are representative of the teachings in the art and are applied to the specific

limitations within the individual claim, other passages and figures may apply. Applicant, in

preparing the response, should consider fully the entire reference as potentially teaching all or

part of the claimed invention, as well as the context of the passage as taught by the prior art or

disclosed by the Examiner.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

5.   Claims 1-26 and 57-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Lee US Patent 6,374,177 B1 in view of Leeke et al. US Patent 6,587,127 B1.

Claims 1, 16, 57, 68, 76 and 87:

        As per claim 1, 16, 57, 68, 76 and 87, **Lee** teaches a method, apparatus and products
comprising:

communicating broadcast information to a receiver via digital radio broadcast (column 11, lines 1-

15).

Lee does not teach *receiving information regarding a plurality of actions entered in a man-machine interface of said receiver and tracking said plurality of actions, said plurality of actions associated with multiple items of data content of interest.* However, **Leeke** teaches a content player method and server with user profile in column 1, lines 10-11 and further teaches, *"Figure 24. Illustrates an example of a listening booth feature provided in the second display region 222. The listening booth feature is activated in response to receiving a user-initiated selection of the user feedback control 226. The listening booth feature can provide a venue for new music by relatively unknown talent. End users listen to the music, and provide feedback to a service via the electronic network 100."* (column 22, lines 1-8) and *"The music selection is loaded into the attributes. Based on user preferences, the tracks can automatically begin playing when queued. The music selection can include samples of a few seconds from each track on an album, for example. During playback, the end user enters a rating using a control 674. The control includes 674 a marker 676 that is manipulated with respect to a numerical scale. The numerical scale 680 can run between two numerical limits, such as from 0 to 100. Upon completion of playing the samples, the user-entered rating is recorded and the music selection is counted as being rated by the end user."* (column 22, line 63 to column 23, line 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention of Lee to receive and track information regarding a plurality of actions associated with multiple items. One would have been motivated to receive and track information regarding a plurality of actions associated with multiple items in order to gather and collect data.

Lee does not teach *accumulating said information regarding said plurality of actions until a predetermined threshold associated with said plurality of actions is reached nor and after reaching said threshold, communicating a request for said multiple items of data content of interest.* However, **Leeke** teaches a content player method and server with user profile in column 1, lines 10-11 and further teaches, *"Once the number of albums rated by the end user has attained a predetermined number, the end user can request a complimentary copy by selecting any one of the albums in the list."* (column 23, lines 36-39). Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention of Lee to collect information regarding a plurality of actions until a threshold of actions is reached and communicating items of interest. One would have been motivated to collect information regarding a plurality of actions until a threshold of actions is reached and communicating items of interest in order to make sure the customer has complied with the minimum requirements before providing goods or services.

Claims 2, 17, 58, 69, 77 and 88:

As per claims 2, 17, 58, 69, 77 and 88, **Lee** and **Leeke** teach the method, apparatus and products as in claims 1, 16, 57, 68, 76 and 87 as described above and **Lee** further teaches further teaches *wherein said actions include any of the following: storing broadcast information rendered at said receiver, clearing broadcast information rendered at said receiver, purchasing products advertised in broadcast information rendered at said receiver, purchasing said multiple items of data content of interest, or browsing other broadcast data* (column 11, lines 16-34).

Claims 3, 4, 19, 59, 60, 78 and 79:

As per claim 3, 4 19, 59, 60, 78 and 79, **Lee** and **Leeke** teach the method, apparatus and product of claims 1, 16, 57 and 76 as described above as described above and **Lee** further teaches *comprising receiving system information from said receiver, wherein said system information comprises time stamp information and random number information* and *wherein said time stamp information is a global positioning system time stamp* (column 11, lines 16-34 and lines 51-62). The Examiner notes that the claimed feature of receiving "random number information" along with the stamp information is given little, if any, patentable weight in that the claims do not include any subsequent use of the random number, thus it does not effect the invention.

Claims 5, 22, 61, 72, 80 and 91:

As per claims 5, 22, 61, 72, 80 and 91, **Lee** and **Leeke** teach the method, apparatus and product of claims 1, 16, 57, 71, 76 and 87 as described above and **Lee** further teaches *comprising authenticating said receiver* (the receiver registers and must sign in) (column 13, lines 55-67).

Claims 6:

As per claim 6, **Lee** and **Leeke** teach the method of claim 3 as described above and **Lee** further teaches *comprising communicating with an order placement service for placing an electronic order and synchronizing said order placement service for placing an electronic order and synchronizing said order placement service with a server, wherein said synchronizing is based on said time stamp information* (column 11, lines 16-34).

Claims 7, 23, 62, 71, 81 and 90:

As per claims 7, 23, 62, 71, 81 and 90, **Lee** and **Leeke** teach the method, apparatus and product of claims 1, 16, 59, 68, 78 and 87 as described above but do not teach *comprising placing an order for said multiple items of data content of interest.* However, it would have been obvious to one of ordinary skill in the art at the time of the invention of Lee to place an order for multiple items. Lee teaches purchasing a product; however, Lee could have modified the invention to allow the user to place a variety or multiple orders of items. For example, the website Amazon.com allows a user to place multiple orders when shopping online.

Claims 8, 20, 63 and 82:

As per claims 8, 20, 63 and 82, **Lee** and **Leeke** teach the method, apparatus and product of claims 6, 16, 62 and 81 as described above and **Lee** further teaches *of data content of interest is carried out via any of the following protocols: point-to-point protocol (PPP), transmission control*

protocol/Internet Protocol (TCP/IP), user datagram protocol (UDP), or wireless datagram protocol (WDP) (column 8, lines 30-50 and column 10, lines 40-59) but does not teach *wherein said communicating a request for said multiple items.* However, it would have been obvious to one of ordinary skill in the art at the time of the invention of Lee to communicate a request for multiple items. For example, Amazon.com allows consumers to place multiple orders when shopping online.

Claims 9, 64 and 83:

As per claim 9, 64 and 83 **Lee** and **Leeke** teach the method, apparatus and process of claims 1, 57 and 76 as described above and **Lee** further teaches *of data content of interest for digital radio broadcast to said receiver* (column 10, lines 60-67) but does not teach *wherein said method further comprises processing said multiple items.* However, it would have been obvious to one of ordinary skill in the art at the time of the invention of Lee to process multiple items. For example, Amazon.com processes various items when consumers are shopping online.

Claim 10:

As per claim 10, **Lee** and **Leeke** teach the method of claim 1 as described above and **Lee** further teaches *on an article of manufacture* (column 11, lines 16-34) but does not teach *wherein said method further comprises delivering said multiple items of data content of interest.* However, it would have been obvious to one ordinary skill in the art at the time of the invention of Lee deliver multiple items of interest to the user. Lee is able to receive information about a product, however Lee could have modified the invention to deliver multiple items of interest.

Claim 11:

As per claim 11, **Lee** and **Leeke** teach a method of claim 10 as described above and **Lee** further teaches *wherein said article of manufacture is any of the following: CD-ROM, DVD, magnetic tape, optical disc, hard drive, floppy disk, ferroelectric memory, flash memory,*

ferromagnetic memory, optical storage, charge coupled devices, magnetic or optical cards, smart

cards, EEPROM, EPROM, RAM, ROM, DRAM, SRAM, or SDRAM (column 11, lines 16-34).

While it is not explicitly disclosed that the article of manufacturer (i.e. product) is a CD-ROM,

DVD, magnetic tape, optical disc, hard driver, floppy disk, ferroelectric memory, flash memory,

optical storage, charge coupled devices, magnetic or optical cards smart cards, EEPROM,

EPROM, RAM, ROM, DRAM, SRAM, or SDRAM, no patentable weight is given to the type of

product being purchased and delivered.   Both the applicant's invention and the invention

disclosed by Lee could be used to purchase any type of product from music CD-ROMs to food to

insurance to cars, etc.   Furthermore, Lee discusses purchasing music from a store for

downloading to the receiver.   Such music products are usually store on one or more of the

claimed articles of manufacturer.   Thus, Lee at least implies that the product could be one of the

claimed types of articles of manufacture.

Claims 12, 24, 67, 73, 86 and 92:

As per claims 12, 24, 67, 73, 86 and 92, **Lee** and **Leeke** teach the method, apparatus

and product of claims 1, 16, 57, 68, 76 and 87 as described above and **Lee** further teaches

wherein said digital radio broadcast is an in-band on-channel (IBOC) digital radio broadcast

(digital audio broadcast—DAB)(column 11, lines 1-15).

Claims 13, 25, 65, 74, 84 and 93:

As per claim 13, 25, 65, 74, 84 and 93 **Lee** and **Leeke** teach a method, apparatus and

product of claims 7, 23, 62, 71, 81 and 90 as described above and **Lee** further teaches *wherein*

said predetermined threshold comprises any of the following:

a threshold indicating number of actions to be recorded before placing said order (column 11,

lines 16-34).

and a threshold indicating either a download time limit or content size to be reached before

placing said order (column 11, lines 16-34).

Claims 14, 26, 66, 75, 85 and 94:

As per claim 14, 26, 66, 75, 85 and 94 **Lee** and **Leeke** teach the method, apparatus and product of claims 1, 16, 57, 68, 76, 87 as described above and **Lee** further teaches *wherein said threshold is modifiable over a network* (column 6, lines 21-32). Since the threshold field is one of the parameters, it is inherent that the threshold would be modifiable by the user.

Claim 15:

As per claim 15, **Lee** and **Leeke** teach the method of claim 1 as described above and **Lee** further teaches *wherein said received broadcast information is in a format suitable for reception by an in-band on-channel digital radio receiver* (column 11, lines 1-15).

Claims 18, 70 and 89:

As per claim 18, 70 and 89, **Lee** and **Leeke** teach the method, apparatus and product of claims 16, 68 and 87 as described above and **Lee** further teaches *wherein said man-machine interface further comprises a graphical user interface (GUI)* (column 8, lines 62-67).

Claim 21:

As per claim 21, **Lee** and **Leeke** teach the method of claim 16 as described above and **Lee** further teaches *wherein said method further comprises electronically receiving* (column 11, lines 16-34) but does not teach *said multiple items of data content of interest*. However, it would have been obvious to one of ordinary skill in the art at the time of the invention of Lee to receive multiple items data of interest. For example, Amazon.com allows shoppers to receive information on multiple items they are interested in.

Claim 95:

As per claim 95, **Lee** and **Leeke** teach the method of claim 16 as described above but do not teach *the request for said multiple items of data content of interest being communicated via a wireless uplink module at said receiver*. However, it would have been obvious to one ordinary

skill in the art at the time of the invention of Lee to communicate items of interest via wireless

uplink module at receiver. For example, Global Positioning System in automobiles allows user to

request and receive multiple items (addresses or directions) wirelessly.

Response to Arguments

6.   Applicant's arguments with respect to claims 1-26 and 57-95 have been considered but

are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to MATTHEW L. HAMILTON whose telephone number is (571)270-1837. The

examiner can normally be reached on Monday-Friday 7:30a.m-5p.m EST alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James W. Myhre can be reached on (571) 272-6722. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system,

see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MLH   /Donald L. Champagne/
Examiner, Art Unit 3688   Primary Examiner, Art Unit 3688
March 30, 2009